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March 25, 2025

VIA ECF and EMAIL

Hon. Katherine Polk Failla
United States District Court
40 Foley Square
New York, NY 10007

MEMO ENDORSED

Re: *Flycatcher Corp. Ltd. et al v. Affable Avenue LLC, et al.*
No. 1:24-cv-09429-KPF

Dear Judge Failla:

This firm represents plaintiffs Flycatcher Corp. Ltd. and Flycatcher Toys Inc. (collectively “Flycatcher”). We write to respond to defendant Affable Avenue LLC’s letter (ECF Dkt. No. 72).

As the Court is aware, this case involves the sale of a large quantity of stolen goods by various internet merchants. The sale of such goods, bearing Flycatcher’s registered mark, deceives the consuming public and has caused irreparable harm to Flycatcher. In particular, Defendants advertise the goods on the same internet platforms used by Flycatcher, without informing their customers and potential customers that the goods are stolen. Flycatcher brings claims for trademark infringement as well as other claims for sale of stolen goods.

With respect to Affable Avenue’s time to answer, that defendant executed a Waiver of Service (ECF Dkt. No. 45) in December, which made its Answer due on February 15, 2025. In recent correspondence, we agreed to extend the time for Affable Avenue to Answer to April 3, 2025. This is a total of 107 days. We see no reason for further time.

With respect to the request to reschedule the initial conference, Flycatcher does not object to such an extension.

Affable Avenue complains about Flycatcher’s having shut down its offerings on Amazon. But Flycatcher, as the trademark owner, was entitled to enforce its rights and make efforts to stop the infringement. Any sales information is still available from Amazon. Now that Affable Avenue has appeared, we can provide it with a copy of any production by Amazon. Affable Avenue is also free to subpoena Amazon for any information that may be relevant to its defense.



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With respect to compelling arbitration, Flycatcher disputes that the arbitration provision in its agreement with Amazon can be invoked by the defendants here. Defendants are strangers to that agreement and have no basis to invoke its provisions.

Respectfully Submitted,

Tal S. Benschar

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cc: All Counsel (via ECF)

The Court has reviewed the letter Defendant Affable Avenue LLC ("Affable") submitted (Dkt. #72) and the letter Plaintiffs submitted in response (Dkt. #74).

To begin with, the Court notes the misspelling of its name by counsel for Affable in the greeting of its letter and advises counsel to take greater care when addressing the Court in the future.

The Court hereby ADJOURNS *nunc pro tunc* Affable's deadline to answer or otherwise respond to the complaint to on or before **April 3, 2025**.

In light of Affable's representation that Defendant Top Experience Company LLC, the only other defendant that has appeared in this action, consents, the Court hereby ADJOURNS the initial pretrial conference to **April 11, 2025, at 10:00 a.m.** As before, the conference shall take place by telephone. At the scheduled time, the parties shall dial (855) 244-8681 and enter access code 2315 780 7370.

In light of Affable's and Plaintiffs' submissions, this initial pretrial conference shall also serve as a pre-motion conference regarding Affable's anticipated motion to compel arbitration. All parties who have appeared in the action, including Plaintiffs, Affable, and Top Experience Company, LLC, and hereby ORDERED to submit a letter, not to exceed three pages, on or before **April 3, 2025**, addressing in more detail the merits of compelling arbitration in this action.

The Clerk of Court is directed to terminate the pending motion at docket entry 72.

SO ORDERED.

Dated: March 25, 2025
 New York, New York

HON. KATHERINE POLK FAILLA
 UNITED STATES DISTRICT JUDGE